

September 22, 2006

Public Notice for Water Quality Certification and/or Waste
Discharge Requirements (Dredge/Fill Projects)
Windsor Oaks Association, LP
Windsor Oaks Vineyard Restoration Project
Sonoma County (WDID No. 1B06130WNSO)

On September 11, 2006, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Douglas Lumgair, on behalf of Windsor Oaks Association, LP (Applicant), requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Windsor Oaks Vineyard Restoration Project located at 10810 Hillview Road in Windsor, CA. The project impacted Waters of the United States tributary to Starr Creek in the Mark West Hydrologic Sub Area No. 114.23.

On February 28, 2004, Regional Water Board staff met with Mr. Lumgair of Windsor Oaks Winery and Vineyards and conducted an initial inspection of the Windsor Oaks Vineyards site, in response to a referral from Mr. Kevin Doble of the Sonoma County Permit and Resource Management Department. Staff determined that grading within Waters of the State and Waters of the United States at the site had occurred, without required permits, resulting in fill placement and grading of approximately 0.21 acres of seasonal wetlands, swales and streams. On August 25, 2004, the Executive Officer of the Regional Water Board issued a Cleanup and Abatement Order that required the Applicant to submit an application for a 401 Water Quality Certification and a mitigation plan.

On April 14, 2006, the Applicant submitted a revised mitigation and monitoring plan that will mitigate for the lost functions of jurisdictional Waters of the United States and Waters of the State in multiple sites on the property. The plan also provides mitigation for temporal losses of habitat function and value. The plan proposes three forms of mitigation on site: restoration of prior habitat, creation of in-kind replacement habitat and enhancement of existing habitat.

The mitigation plan includes creation of 4,050 square feet of seasonal wetland, creation of 400 linear feet of swale habitat, and restoration of 800 feet of swale habitat at the site designated as Block 1 in the mitigation plan. Within Block 6, 100 linear feet of wetland will be enhanced with the planting of native trees and shrubs. Within Block 7, 400 linear feet of ephemeral stream channel will be restored including the removal of fill and a culvert and grading to repair the stream to its original topography and hydrology. The stream will then be protected with erosion control fabric and planted with native grasses, shrubs and trees. An estimated 36,100 cubic yards of fill will be removed from Block 7 and used on site. Mitigation in Block 8 will include enhancement of 800 linear feet of ephemeral stream channel by planting native trees and shrubs. The Applicant will also dedicate a 0.36 acre on-site freshwater pond to the existing open space easement area and remove barrier fencing that reduces wildlife migration within some areas of the site.

Non-compensatory mitigation measures include the use of erosion control Best Management Practices (BMPs) to prevent erosion and sediment discharges. All exposed soil will be permanently stabilized at the earliest practicable date.

The Water Quality Certification, when issued, will also rescind the associated Cleanup and Abatement Order. Enforcement activities were initiated by the Regional Water Board upon discovering wetlands filled at the site, without required permits.

The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project is categorically exempt under Class 15308 for actions by regulatory agencies for protection of the environment pursuant to CEQA.

Staff is proposing to regulate this project pursuant to Section 401 of the Clean Water Act (33 USC 1341) and/or Porter-Cologne Water Quality Control Act Authority. Under Title 23, California Code of Regulations, Section 3858(a): "The executive director or the executive officer with whom an application for certification is filed shall provide public notice of an application at least twenty-one (21) days before taking certification action on the application, unless the public notice requirement has been adequately satisfied by the applicant or federal agency. If the applicant or federal agency provides public notice, it shall be in a manner and to an extent fully equivalent to that normally provided by the certifying agency. If an emergency requires that certification be issued in less than 21 days, public notice shall be provided as much in advance of issuance as possible, but no later than simultaneously with issuance of certification."

Due to the urgent nature of this project and the need to perform the restoration and mitigation as soon as possible, a Water Quality Certification will be issued during the 21-day public comment period. Public comments will still be accepted and reviewed during the entire 21-day comment period; and the certification may be modified. If you have any questions or comments, please contact staff member Mona Dougherty at (707) 570-3761 or at mdougherty@waterboards.co.gov within 21 days of the posting of this notice.

The related documents and comments received are on file and may be inspected or copied at the Regional Water Board office, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. Appointments are recommended for document review. Appointments can be made by calling (707) 576-2220.